IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 9068 of 1995

Between:

Vegiraju Venkat Raju, S/o. late V.Balram Raju,
Kelanapalli Village, Kale Mandal,
West Godavari District.

..... PETITIONER

AND

1 Additional Revenue Divisional Officer (L.R.), Eluru,
West Godavari District.
2 Mandal Revenue Officer, Kalla Mandal,
West Godavari District.
3 Sub Collector, Narsapur,
West Godavari District.
4 V.Simhadri Raju, S/o. Chinna Mahankali Raju,
Kelanpalli village, Kalla Mandal,
West Godavari District.
5 Smt.V.Appala Narasamma, W/o. V.Simhadri Raju,
Kelanpalli village, Kalla Mandal,
West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more in the nature of writ of mandamus directing the respondent No.1 to hold an enquiry

in this matter on the petition Dt.20/07/1989 filed by the petitioner herein and pass appropriate To issue appropriate writ or order or direction more in the nature of writ of Mandamus directing the Res.No.1 to hold an enquiry in this matter on the petition dated 20.7.89 filed y the petitioner here in and pass appropriate orders in this regard and consequently this Hon'ble Court be pleased to declare that the proposed action of the Res.No.1 in pursuance of the proceedings in file No.LCC.No.1234/BVM/75, Dt.12/9/1990 on the file of the Res.No.1 proposing to select the lands of the petitioners bearing Nos. RS.No.14 acres 4.16 cents - Village Kelanapalli RS.No.13/2 acres 4.00 cents - Village Kelanapalli RS.No.286/2 acres 3.32 cents - Village Kelanapalli as excess land of Respondent No.4 and Respondnet No.5 under the A.P. Agriculture Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 is illegal and without jurisdiction and do not bind the petitioners and grant such other relief or reliefs as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioners: MR.G.ANJAPPA

Counsel for the Respondents 1 to 3: GP FOR REVENUE

Counsel for the Respondents 4 & 5: None appeared

The Court made the following:

ORDER:

This writ petition is filed by the petitioner seeking writ of Mandamus to direct the first respondent- Additional Revenue Divisional Officer, Eluru, to hold an enquiry on his petition dated 20.07.1989 and to pass appropriate orders, and further, to declare the proposed action

of the first respondent in selecting the lands bearing RS Nos.14, 13/2 and 286/2 admeasuring ac.4-16 cents, ac.4.00 cents and ac.3-32 cents respectively situated in Kelanpalli Village of West Godavari District as excess lands of the respondents 4 and 5 and surrendering the same as illegal and arbitrary.

Facts of the case in brief are as follows: -

It is the case of the petitioner that since the respondents 4 and 5 are big land lords, under provisions of the A.P. Land Reforms (Ceiling of Agricultural Holdings) Act, 1973 (for short 'the Act'), the competent authority has passed orders declaring that they were holding excess lands than standard holding. The petitioner has come up with this writ petition stating that he has continued as a cultivating tenant of the lands in question and objected for taking possession of the same as the excess lands of the respondents-declarants 4 and 5. The grievance of the petitioner is that though he filed submitted a petition dated 20.07.1989 to the first respondent on 20.07.1989 apprising him that the lands in question were leased to him and his father by the respondents 4 and 5 and requested to hold an enquiry in the matter, but, the said petition was not taken up in the enquiry, and hence, the petitioner approached this Court by filing the present writ petition.

In the counter-affidavit filed on behalf of the respondents it is stated that the lands bearing RS Nos.14, 13/2 and 286/2 admeasuring ac.4-16 cents, ac.4.00 cents and ac.3-32 cents respectively situated in Kelanpalli Village of West Godavari District were declared as surplus lands on the declarations filed by the respondents 4 and 5. They have also denied the tenancy and possession claimed by the petitioner on the lands in question. It is also further stated that no such representations were filed, as pleaded by the petitioner, on 20.07.1989. The notice in Form VIII of the Act was published in the

village by affixure of the notice on the notice Board of Kolanapalli gram panchayath in the month of July, 1989, inviting objections against the proposed taking possession of the surplus lands of the respondents 4 and 5. Further, it is stated that as no objections have been received from anybody, final orders were passed to take possession of the lands in question and ultimately, it was taken by the Mandal Revenue Inspector on 01.10.1990. It is also stated that the father of the petitioner by name V. Balarama Raju signed as a witness on the Tom Tom certificate and the brother of the petitioner by name V.Subbaraju also signed as a witness in form No.10. It is also stated in the counter-affidavit that the petitioner has never filed any declaration claiming tenancy right under the A.P. (Rights in Land) and Pattadar Pass Books Act, 1991, and as such, proceedings were initiated and orders were passed and lands in question were accepted towards the surplus lands of the respondents 4 and 5 in the surrender proceedings.

It is submitted by the learned counsel appearing for the petitioner that the petitioner continued to be in possession of the lands in question as a cultivating tenant since the year 1970 and is paying the lease amount to the respondents 4 and 5. He further contended that in that view of the matter the very computation of the said lands to the holding of the respondents 4 and 5 is illegal and the petitioner cannot be dispossessed from the same without conducting any enquiry on his representation dated 20.07.1989. To support his contention the learned counsel also placed reliance on a decision reported in **M.R.Venkataratnam Chowdary Vs. State of A.P.**

On the other hand, it is submitted by the learned Government Pleader appearing for the respondents 1 to 3 that as the lands in question were found to be excess lands of the respondents-declarants 4 and 5, the possession of the same were taken by the Government. It is further submitted that inasmuch as the orders for surrender of the

excess lands of the respondents 4 and 5 has become final and the lands in question vested with the Government free from encumbrances, the petitioner cannot question the same by filing a petition under surrender proceedings.

With reference to the above submissions, it is to be seen that it is not in dispute that the lands in question were owned by the respondents 4 and 5 and they formed part of the declarations filed by them. When it is not in dispute that the respondents 4 and 5 are found to be surplus holders under the proposed Act, and inasmuch as the respondents 4 and 5 have filed the declarations as required under the Act for surrender of the excess lands, the surrender proceedings were initiated by inviting objections, and final orders were passed and possession of the land was taken by the Government. Section-11 of the Act envisages that where any land is surrendered or deemed to have been surrendered under this Act, the possession of such land thereupon shall vest with the Government free from all encumbrances from the date of such order. In that view of the matter, further, in this case the petitioner has not questioned the very computation of the said lands to the holding of the respondents 4 and 5 and when the said orders of surrender have become final, the petitioner cannot agitate his independent right *de hors* the declarations filed by the respondents 4 and 5. Inasmuch as the lands in question are already computed to the holding of the respondents 4 and 5 and the said order surrendering the same has become final, the decision relied upon by the learned counsel for the petitioner is not applicable having regard to the factual situation of the case on hand. Moreover, when the respondents have denied the very receipt of the representation of the petitioner and the orders declaring the surrender of surplus holding of the respondents 4 and 5 became final, at this stage, no direction can be given to the first respondent to enquire into the claim of the petitioner herein.

The writ petition is devoid of merits and the same is accordingly dismissed. No order as to costs.

_____ (R.SUBHASH REDDY, J)

13.12.2004

DR

To

1 Additional Revenue Divisional Officer, (L.R.) Eluru,
West Godavari District.
2 Mandal Revenue Officer, Kalla Mandal,
West Godavari District.
3 Sub Collector, Narsapur,
West Godavari District.
4 2CCs to Government Pleader for Revenue, High Court

Buildings, Hyderabad.

5 2CD copies